

Claim 33 (new) An edible product having improved organoleptic properties when made by the method according to Claim 32.

Claim 34 (new) A method comprising ingesting the edible product according to claim 21.

REMARKS

It is requested that the requirement for a substitute specification be deferred until the application is otherwise in condition for acceptance. At that time amendments will be entered together with the statement that the substitute specification contains new matter and a marked up copy showing amendments made at that time. However, the applicant now lists below the amendments to be made to present specification which will correspond to the substitute specification to indicate amendments dealing with the use of the trademark AquaMin and to more clearly indicate specific organoleptic properties:

Page 11, line 15, insert --(trademark)-- after "AquaMin"

Page 17, line 2 from the bottom, insert --(calcareous product)-- after "AquaMin"

Page 18, line 15, insert --(organoleptic property)-- after "mouth feel"

Page 23, line 10, insert --(organoleptic properties)-- after "acceptability"

Page 24, line 16, insert --(organoleptic property)-- after "Creaminess".

As regards the new claims, new Claim 21 corresponds to previous Claim 11

incorporating the limitation of Claim 10 regarding the calcareous residue but omitting the phrase "particularly carbonates" and limited to a range of 0.5% to 5% by weight as disclosed at page 10, line 26 in conjunction with page 10, lines 28 - 30. The claim has been worded so as to make it clear that the calcareous residue is present in an amount (within the indicated numerical range by weight) such that the edible product has improved organoleptic properties as compared to the same product free of said residue. Claim 22 has been amended to specify that the calcareous residue is distributed generally in the fat material as disclosed at page 9, lines 7-9 of the specification. Claims 23-28 correspond to cancelled Claims 13-18 respectively. New Claim 29 specifies the weight range of 1 to 2% as disclosed at page 10, line 29 of the specification. Claim 30 emphasizes the fact that the calcareous residue also has a nutritive effect as based on page 1, line 32 of the specification. New Claim 31 emphasizes a particular organoleptic property as to the mouth feel as described on page 5, line 19 and 20 and illustrated at page 13, lines 26 and 27 without an adverse effect on taste or visual appearance as described at page 13, lines 19-27. An actual improvement in taste is described at page 23, table at top, which is, of course, encompassed by "without adverse effect".

New method Claim 32 emphasizes incorporating into the solid or semi-solid foodstuff enough of the calcareous residue to an amount up to 5% by weight of the resulting products such that the edible product has improved organoleptic properties so that a positive step is required to include said calcareous residue in an amount necessary to achieve the desired effect. New Claim 33 defines the novel product made by new Claim 32. New Claim 33 corresponds to previous Claim 21 made

dependent on new Claim 21.

With respect to the objection to the use of the trademark AquaMin, applicant would be quite willing to comply with the requirement of the Examiner to capitalize this term whenever used except for the fact that such capitalization of the entire term would defeat one of the distinguishing features of the trademark, namely the fact that there is a capital "M" in the middle of the term. Therefore, applicant proposes to indicate that the name is a trademark as proposed for page 11, line 15. However, applicant respectfully requests that the Examiner interpret Rule 608.01(v), namely, that the trademark if used be distinguished from common descriptive nouns by capitalization, by noting that the first and fifth letters of AquaMin are capitalized and thus identify the product as a trademark without total capitalization, of all of the letters. Therefore, it is requested that the present usage be permitted in the application in the light of the identification at page 11, line 15 and in terms of a reasonable construction of the rule.

With respect to the objection under the first paragraph under 35 USC 112, new Claim 21, corresponding to a combination of previous claims 10 and 11, does not contain a reference to fat material. Therefore, new Claims 24, 25, 26, and 27, corresponding to cancelled Claims 14-17, respectively, are no longer subject to this objection.

As to the rejection under 35 USC 112, second paragraph, the preferred statements within the claims have been removed. Furthermore, reference is no longer made to both "organoleptic and physical properties", but only to "organoleptic properties". New Claim 21 and well as new Claim 32 refer to organoleptic properties,

which are illustrated in various portions of the specification such as "better mouth feel" at page 18, line 15, "taste" at the passage bridging pages 22 and 23 and "creaminess" in Example 7 at the bottom of page 24. It is submitted that the term "organoleptic properties" is well understood by those skilled in the art. Enclosed is a copy of the cover sheet and page 1261 of Webster's New Twentieth Century Dictionary, Second Edition, (1979), which shows that "organoleptic" is given a first definition of "making an impression on an organ of special sense". With reference to the objection to Claim 12, new Claim 22 now specifies that the calcareous residue is distributed generally in the "fat material".

With respect to the rejection under 35 USC 102 as anticipation by Auchincloss (WO98/33508), it is understood that there is disclosure in the citation of possible incorporation of the calcareous residue in food products. However, there is no disclosure in the earlier publication of the calcareous residue's enhancing organoleptic properties, and there is no disclosure in the reference of a specific formulation of a food product. Furthermore, applicant is not aware of any publication of such a food product before the UK priority date of October 30, 1998. Since no example exists in the citation of any specific food composition containing such a residue, there can be no direct anticipation of Claim 21, which requires a minimum amount of 0.5% by weight of the calcareous residue in the edible product and that the calcareous residue be present in an amount such that the edible product has improved organoleptic properties as compared to the same product free of said residue. Similarly with respect to method Claim 32 and novel product-by-process Claim 33, there is no anticipation of incorporating into the solid or semi-solid foodstuff the residue in an

amount (up to 5% by weight of the resulting product) such that the edible product has improved organoleptic properties as compared to said foodstuff free of said calcareous residue.

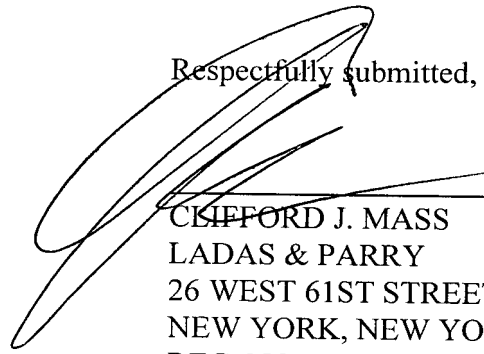
With respect to the rejection under 35 USC 103, the Examiner points out that Auchincloss shows the formulation of emulsions using the calcareous residue. The Examiner takes the position that an emulsified product is considered to be an edible foodstuff, because oil emulsions can be margarines, which are edible. However, it is pointed out that the basic teachings in the reference are for therapeutic or nutritive purposes. Therefore, there would be no incentive for one reading Auchincloss to include sufficient calcareous residue to obtain an organoleptic effect. However, in particular it is not believed that the organoleptic effect as per Claim 31 would be suggested by Auchincloss. Furthermore, in accordance with Claim 30, it is surprising that a product which has a nutritive effect would also have an improved organoleptic effect.

With respect to the objection to Claim 12 as containing a process limitation in a composition claim which is not given weight, in corresponding Claim 22 reference is now made to a generally dispersed condition as a matter of physical existence despite the fact that there may have been a method practiced to acquire this distribution.

Applicant appreciates the willingness of the Examiner to consider an allowable claim based on previous Claim 13 (corresponding to new Claim 23) when written in independent form. However, Applicant believes that it is entitled to broader protection based on novelty and inventiveness on the basis of the above explanations,

and favorable consideration and allowance of the claimed subject matter is respectfully requested.

Respectfully submitted,

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

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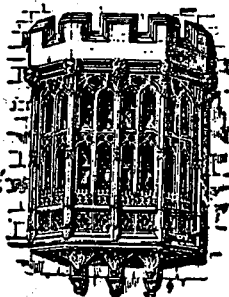
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organize

6. all the functionaries, committees, etc. of a political party.
or'gan-ize, v.t. organized, *pl., pp.*; organizing, *ppr.* [ML. *organizare*, from L. *organum*; Gr. *organon*, organ.]
 1. to provide with an organic structure; to systematize.
 2. to arrange; establish; institute; bring into being.
 3. (a) to enlist in, or cause to form, a labor union; (b) to enlist the employees of (an industry, store, etc.) in a labor union.
or'gan-ize, v.i. 1. to become organic or organized.
 2. to form or join a labor union.
or'gan-izer, n. a person who organizes; specifically, a labor-union official whose work is enlisting and orienting members.
or'gan-ist, n. the loft where an organ stands, especially in a church.
or'gan-ist, n. [Gr. *organon*, organ.] a combining form meaning *organ* or *organic*, as in *organography*.
or'gan-ic, n. [organo-, and Gr. *gennaein*, to beget.] in chemistry, any one of the elements carbon, hydrogen, oxygen, and nitrogen, regarded as the characteristic ingredients of an organic compound.
or'gan-ic, n. in biology, the origin and development of organs.
or'gan-ic, n. a. organogenic.
or'gan-ic, n. a. of or pertaining to organogeny.
or'gan-ic, n. [organo-, and Gr. *gennaein*, to beget.] from *gennaein*, to become.] organogenesis.
or'gan-ic, n. a. pertaining to organography.
or'gan-ic, n. a. organographic.
or'gan-ic, n. a. one who describes the organs of animal or vegetable bodies.
or'gan-ic, n. [organo-, and Gr. *grapho*, to describe, to write.] a scientific description of plant or animal organs.
or'gan-ic, n. [organo-, and Gr. *leptikos*, disposed to take, from *lambanein*, to take.]
 1. making an impression on an organ of special sense.
 2. capable of receiving a sense impression.
or'gan-ic, n. a. pertaining to organology.
or'gan-ic, n. a. organologic.
or'gan-ic, n. one versed in organology.
or'gan-ic, n. [organo- and -logy.]
 1. the study of plant or animal organs, with reference to their form, structure, development, and functions.
 2. phrenology.
or'gan-ic, n. a. in chemistry, consisting of a metal in combination with an organic radical.
or'gan-ic, n. [Gr.]
 1. a method, means, or agency for communicating knowledge.
 2. in philosophy, a system used in investigation.
or'gan-ic, n. a. pertaining to organonomy.
or'gan-ic, n. [organo-, and Gr. *nomos*, law.] the doctrine of the laws of organic life; also, the laws themselves.
or'gan-ic, n. a. pertaining to organonymy.
or'gan-ic, n. a. organonymal.
or'gan-ic, n. [organo-, and Gr. *onyma*, name.] the nomenclature of organs.
or'gan-ic, n. a. [organo- and -plastic.] having the property of producing or evolving the tissues of the organs of animal or vegetable beings; as, *organoplastic* cells.
or'gan-ic, n. [organo-, and Gr. *skopein*, to view.] phrenology.
or'gan-ic, n. [organo-, and Gr. *therapeia*, n. pl. [construed as sing.] organotherapy.
or'gan-ic, n. [organo- and -therapy.] the treatment of disease with extracts of animal organs, as of the glands of internal secretion.
or'gan-ic, n. [organo-, and Gr. *trepho*, to nourish.] pertaining to the nutrition of organs.
or'gan-ic, n. any pipe of a pipe organ, or something resembling this.
or'gan-ic, n. a coral of the genus *Tubipora*, consisting of cylindrical tubes united by horizontal plates.
or'gan-ic, n. in music, a passage in which the tonic or dominant is sustained continuously by one part, while the other parts move; also called *pedal point*.
or'gan-ic, n. the stop of an organ: see *stop, n.*
or'gan-ic, n. [dim. of *organ*.] a cell or element

or'ga-num, n.; pl. or'ga-nums, or'ga-na, [L.; Gr. *organon*, a tool.]
 1. an organon.
 2. in music, an early type of two-part harmony in which the voices are separated by an interval of a fourth or fifth.
or'gan-zá, n. a thin cotton material similar to organdy.
or'gan-zine, n. [It. *organzino*; Fr. *organsin*.] silk twisted like a rope with different strands, so as to increase its strength.
or'gasm, n. [Gr. *orgasmos*, from *organ*, to swell.] a frenzy; great excitement; especially, the climax or culmination of a sexual act.
or'gas-tic, a. pertaining to or exhibiting orgasm.
or'geat (-zhat), n. [Fr., from *orge*, barley.] a liquor or sirup extracted from barley and sweet almonds, and used as a flavor for beverages and edibles, or medicinally as a mild demulcent.
or'gi-as-tic, a. of, resembling, or relating to an orgy or orgies.
orgue, n. [Fr.]
 1. a long, thick piece of timber pointed and shod with iron, and hung over a gateway, to be let down in case of attack: used in medieval warfare.
 2. a piece of ordnance composed of several musket barrels united, by means of which several explosions are made at once.
or'gu-lous, a. proud; haughty. [Archaic.]
or'gy, n.; pl. or'gies, [Gr. *orgia*, secret rites, secret worship, from *orge*, any violent passion, anger, wrath.]
 1. [usually in *pl.*] in ancient Greece and Rome, feasting and wild celebration in worship of certain gods.
 2. any wild, riotous merrymaking.
 3. an overindulgence in any activity; as, an *orgy* of work.
Or'gyia, n. [Gr. *orgyia*, length of outstretched arms, from *oregion*, to stretch.] a genus of lepidopterous insects: also called *vaporar moths*.
or'i-bi, n. [S. Afr. D., from Nama *arab*.] any of several species of African pygmy antelopes distinguished by a long tuft of hair growing from each knee.
or'i-chalc, n. same as *orichalc*.
or'i-chal-cé-ous, a. pertaining to or resembling orichalc.
or'i-chalch, n. [L. *orichalcum*, mountain brass; Gr. *oros*, a mountain, and *chalkos*, copper.] among the ancient Greeks and Romans, a metallic substance resembling gold in color, but inferior in value; a mixed metal resembling brass: also called *orichalcum* and *aurichalcum*.
or'i-el, n. [OFr. *oriol*; LL. *oriolum*, porch or gallery.] a large window built out from a wall and resting on a bracket or a corbel; a large bay window.
or'i-en-cy, n. [orient and -cy.] brightness or strength of color.
or'i-ent, a. [L. *oriens*, from *ori*, to arise.]
 1. oriental; belonging to the east. [Poet.]
 2. brilliant; shining; precious: originally of pearls, now more general.
 3. rising, as the sun. [Chiefly Poet.]
or'i-ent, n. 1. the east: opposed to *occident*. [Poet.]
 2. [O-] (a) the East; Asia; (b) the Far East; eastern Asia. Opposed to *Occident*.
 3. (a) the quality that determines a pearl's value; luster; (b) a pearl of high quality.
or'i-ent, v.i. oriented, *pl., pp.*; orienting, *ppr.* [Fr. *orienter*.]
 1. to cause to turn to or face the east.
 2. (a) to set, as a map, in agreement with the points of the compass; (b) figuratively, to adjust or adapt to a particular situation (often used reflexively).
 3. to show or establish relationship with others by placing or arranging in a certain manner.
or'i-ent, v.i. 1. to turn to or face the east.
 2. to become adjusted to a situation.
or'i-en-tál, a. 1. eastern: opposed to *occidental*.



ORIEL WINDOW

original

2. [O-] of the Orient, its people, or their culture; Eastern: opposed to *Occidental*.
Or'i-en-tál, n. [sometimes O-] a native of the Orient or a member of a people native to that region: opposed to *Occidental*.
Or'i-en-tál-ism, n. 1. [sometimes O-] any trait, quality, mannerism, etc., usually associated with the people of the East.
 2. study of Eastern culture.
Or'i-en-tál-ist, n. [sometimes O-] a student of Eastern culture.
Or'i-en-tál-ty, n. the state or quality of being Oriental or Eastern.
Or'i-en-tál-ize, v.t. and v.i. Orientalized, *pl., pp.*; Orientalizing, *ppr.* [sometimes O-] to make or become Oriental in character.
Or'i-en-tál rug, n. any of various kinds of handmade rugs made in the Orient: also *Oriental carpet*.
Or'i-en-tate, v.i. orientated, *pl., pp.*; orientating, *ppr.* to orient.
Or'i-en-tate, v.i. 1. to turn or be directed toward the east, as a church.
 2. to adjust to a situation.
Or'i-en-tá-tion, n. 1. an orienting or being oriented.
 2. (a) position with relation to the points of the compass; (b) the planning of church architecture so that the altar is in the east end.
 3. familiarization with and adaptation to a situation or environment; specifically, in psychology, interpretation of the environment as to time, space, objects, and persons.
 4. in zoology, the homing faculty or instinct of certain animals.
Or'i-en-tá-tor, n. a person or thing that orientates; specifically, a contrivance consisting of a section of the fuselage of an airplane mounted on steel tubing so as to give student flyers in a safe way all the motions to which they will be subject in actual flight.
Or'i-en-ness, n. same as *oriciency*.
or'i-fice, n. [Fr., from LL. *orificium*; L. *os*, *oris*, mouth, and *facere*, to make.] the mouth or aperture of a tube, pipe, etc.; an opening.
or'i-flamme, or'i-flamb, n. [Fr., from L. *auri-flamma*, from *aurum*, gold, and *flamma*, a flame.]
 1. the ancient royal standard of France, a red silk banner split at one end to form flame-shaped streamers, used as the early French kings' military ensign.
 2. any battle standard.
or'i-gá-mi, n. [Japan.]
 1. a traditional Japanese art of folding paper to form flowers, animal figures, etc.
 2. an object so made.
or'i-gán, n. a plant of the genus *Origanum*, especially wild marjoram.
Or'ig-a-num, n. [Gr. *oros*, a mountain, and *ganos*, splendor, joy, in allusion to the habitation of the plants.] a genus of labiate plants belonging to the mint family.
Or'i-gen-ism, n. the doctrines of Origen of Alexandria (185-253 A.D.), an early Greek church father, who united the philosophy of the eclectic school of Neoplatonists with the doctrines of Christianity, holding that human souls existed before their union with bodies and that they were originally holy, but became sinful in the pre-existent state.
Or'i-gen-ist, n. a follower of Origen.
or'i-gin, n. [Fr. *origine*; L. *origo*, *originis*, from *ori*, to rise.]
 1. a coming into existence or use; beginning.
 2. parentage; birth; lineage.
 3. that in which something has its beginning; source; root; cause.
 4. in anatomy, the less movable of the two points of attachment of a muscle, usually the end attached to the more rigid part of the skeleton: opposed to *insertion*.
 Syn.—source, beginning, cause, rise.
or'ig'i-ná-ble, a. capable of being originated.
or'ig'i-nál, a. [Fr. *original*; L. *originalis*, from *origo*, origin or beginning.]
 1. having to do with an origin; initial; first; earliest.
 2. never having occurred or existed before; not copied; fresh; new; novel.
 3. capable of or given to inventing or creating something new, or thinking or acting in an independent, individual, fresh way.
 4. coming from someone as the originator, maker, author, etc.
 5. being that or those from which reproductions, copies, etc. have been made.
or'ig'i-nál, n. 1. a pristine form or primary type that has given rise to varieties.
 2. an original work, as of art or literature.